

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID B. KOPAC,

Petitioner,

v.

JOSEPH DESUTA,

Respondent.

Civil Action No. 04-355 Erie

MEMORANDUM ORDER

This habeas corpus action was received by the Clerk of Court on December 6, 2004, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 17], filed on March 7, 2006, recommended that Petitioner's Petition [Doc. No. 4] be dismissed and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail and on Defendant. No objections were filed. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 27th day of March, 2006;

IT IS HEREBY ORDERED that the Plaintiff's Petition [Doc. No. 4] is DISMISSED and a certificate of appealability is DENIED.

The Report and Recommendation [Doc. No. 17] of Magistrate Judge Baxter, filed on March 7, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge